

**Oroville Facilities Relicensing Program
Federal Energy Regulatory Commission Project No. 2100
Draft Summary of the Plenary Group Meeting
May 18, 2004**

The Department of Water Resources hosted a teleconference call for the Plenary Group on May 18, 2004. Participants were invited to meet to use a common speakerphone at either DWR's Sacramento Headquarters or the Oroville Field Division offices. A summary of the discussion, decisions made, and action items is provided below. This summary is not intended to be a transcript of the meeting, or to indicate agreement or disagreement with any of the items summarized, except where expressly stated. The intent is to present a summary for interested parties who could not attend the meeting. The following are attachments to this summary.

Attachment 1	Meeting Agenda
Attachment 2	Meeting Attendees
Attachment 3	Engineering and Operations Work Group Resource Action Matrix
Attachment 4	Process Update Presentation
Attachment 5	Project 2100 Study Plan Reports Delivered to the Collaborative as of May 12, 2004
Attachment 6	Project 2100 Pending Study Plan Report Completion Schedule as of May 12, 2004
Attachment 7	Work Group Meeting Abstracts
Attachment 8	Environmental Work Group Resource Action Statistics
Attachment 9	Environmental Work Group Resource Action Matrix
Attachment 10	Fishery Improvement Program Flow Chart
Attachment 11	Vegetation and Wildlife Management and Enhancement Program Flow Chart
Attachment 12	Water Quality Program Flow Chart
Attachment 13	April 2004 PDEA Progress Summary Overview Outline

Welcome, Introduction and Meeting Objectives

Attendees were welcomed to the Plenary Group teleconference meeting and introduced themselves and their affiliations. The Facilitator reviewed the proposed agenda and desired outcomes for the meeting. The proposed agenda and a list of meeting attendees are appended to this summary as Attachments 1 and 2, respectively.

The Facilitator explained to participants that Curtis Creel, DWR's Resource Area Manager for the Engineering and Operations Work Group (EOWG), was originally scheduled to give a presentation to the group later in the meeting. However, Curtis asked if he could give his presentation at the beginning of the meeting due to a scheduling conflict: no one objected to the agenda change.

Work Group Resource Action Presentation – Part I

Engineering and Operations Work Group (EOWG)

Curtis Creel outlined the current status of resource action development in the EOWG and shared the EOWG RA matrix (Attachment 3). Curtis provided a brief overview on each of the RAs:

- EO1 – In the process of recording data. A Task Force meeting was held to brainstorm and discuss viable options and provide relevant information to the collaborative. Curtis stated that more work needs to be completed. He informed the Plenary Group that a second Task Force meeting is scheduled for Friday, May 21. The meeting will be conducted via video conference from 9:00 a.m. to 12:30 p.m. at the following locations: DWR's Oroville Field Division, the Joint Operations Center, the Southern Field Division, and at the offices of the Metropolitan Water District of Southern California.
- EO2 and EO3 – Work in progress. Both RAs are being incorporated into a scenario which looks at flow objectives from the Environmental Work Group (EWG).
- EO4 – The EOWG is unclear on this issue so this RA has not been developed further.
- EO5 and EO6 – The EOWG is not in agreement regarding the disposition of these actions. A portion of the EOWG feels this would be a settlement issue, while others feel a proposal should be prepared and submitted to the Plenary Group for review. DWR considers this RA a settlement issue to be resolved once actions that require monitoring and adaptive management are identified.
- EO7 and EO8 – Curtis indicated that a couple of very specific items included in these actions could be quickly resolved. The EOWG has been provided with flood inundation maps although some information still needs to be developed. DWR is also working on this issue outside of relicensing in conjunction with Butte County Water Agency and the U.S. Army Corps of Engineers. Study plan results should be available by July 2004, while results from the activity occurring outside of relicensing should be available by December 2004.
- EO9 – This RA has been sent back to the Land Use, Land Management and Aesthetics Work Group (LUWG). Curtis indicated a component of this RA might include watershed modeling, an activity the EOWG would support. The EOWG has agreed to provide assistance to the LUWG when necessary.

- EO10 – Curtis stated that there is little agreement with the EOWG on this RA, particularly with regard to ‘rectifying’ past actions. Future activities would be evaluated as part of the Preliminary Draft Environmental Assessment (PDEA) with mitigations suggested as appropriate. He suggested this RA would best be discussed at the settlement table.

Roger Masuda representing Butte County asked for a legal opinion regarding the suggestion to relegate significant impacts to settlement discussion. Ward Tabor with DWR responded that the PDEA would address impacts of the Project, while focusing on impacts from a new license. Roger asked whether local stakeholders should file a complaint with FERC if they do not feel impacts are being mitigated and asked how DWR would address existing impacts. Roger stated that the Oroville Wildlife Area (OWA) has been “abandoned” and is becoming a nuisance. He asked whether a remedy for this situation should be negotiated outside relicensing. Ward reiterated that the PDEA would identify on-going effects, indirect effects, and cumulative effects. The public can identify impacts that they believe were missed during the public review process.

Eric Theiss with NOAA Fisheries indicated that the due date for the narrative report on EO1 is approaching. He asked if there is a potential for further investigation. Curtis is working with the EOWG to identify those things that can be resolved and listing items that should be looked at more closely. He stated that some burden rests on the environmental documentation process. Eric asked when a decision would be made to continue with investigations. Curtis explained the next step would be to identify what the PDEA team will need for their analysis and whether they require additional assistance from DWR’s engineering staff. Eric asked whether everything would be wrapped up by October 2004. Curtis replied that he is focusing on the initial recommendations to the PDEA team.

Roger Masuda asked for clarification on how DWR plans to interface with the work groups. The Facilitator asked Roger to hold this particular question until the Settlement Process update.

Process Update

Mark Andersen with DWR provided an update on the relicensing process. His presentation is included as Attachment 4. The overall schedule was reviewed and key delivery milestones were identified. Plenary Group members were provided with a list of study plan reports delivered to the collaborative, as well as a pending study plan report completion schedule, as of May 12, 2004 (Attachments 5 and 6, respectively). Mark stated that with a total of 213 reports associated with the approved study plans, 109 have been completed, an additional 84 will be completed by July 2004, and the remaining 20 will be completed throughout the remainder of 2004. DWR provided a working draft terrestrial Biological Assessment to the U.S. Fish and Wildlife Service on May 17, 2004 and is near completion of that effort.

Mike Melanson with the Metropolitan Water District of Southern California requested the Draft Terrestrial BA submitted to USFWS be distributed to the collaborative.

Ted Alvarez with DWR was not sure of the status of the Draft BA but would check if it was ready for distribution. Sharon Stohrer with the State Water Resources Control Board asked if it would be posted on DWR's Oroville Facilities Relicensing web site when formally submitted to USFWS. DWR responded that when the Draft Terrestrial BA is formally submitted it will be posted on the web site.

The Draft Application for License with PDEA Progress Summary was released to the public on April 30, 2004. Mark informed participants that the next Settlement Negotiation meetings are scheduled for May 25 and 26. Eric Theiss stated that in the March Process Update presentation, the document is referred to as a draft PDEA, not just a summary. He asked when the change between draft PDEA and PDEA summary occurred. Mark responded that he did not believe there was a change; DWR has consistently acknowledged that there would be missing information in this draft document and attempting to avoid misunderstanding, decided to call the document a summary. Ward Tabor added that DWR was clear all along that the draft PDEA would be incomplete due to the fact that alternatives have not been identified and taken through the analysis. Eric expressed concern that NOAA Fisheries is at a disadvantage because they are being asked to comment on an incomplete document that doesn't include a cumulative impact report. He added that he had provided guidance on how to include cumulative analysis in the report but was ignored. He reiterated his surprise with the change in language and expressed uncertainty as how to proceed.

Sharon Stohrer asked Jim Fargo, the FERC representative, at what point in an ALP a Section 18 prescription get issued. Jim replied that it would be at the discretion of each ALP and he clarified that there is no requirement in the ALP directing DWR to submit a draft PDEA or Application for License prior to filing in January 2005. Sharon confirmed that NOAA is not required to file their Section 18 prescriptions with FERC at this time. Jim responded that typically, Section 18 prescriptions would be submitted approximately eight months after the January 2005 Application for License filing. However, if there is a settlement agreement, they could be filed sooner. Mark Andersen noted that past Plenary Group meeting summaries describe what would be submitted in April 2004. Rick Ramirez added that the PDEA to be filed in January 2005 would be reviewed by FERC. FERC may request additional information and stakeholders and the public will have the opportunity to correct the record or application during the review period.

Eric Theiss asked if there was a set amount of time, pre- or post-filing of the application, for amendments. Jim Fargo responded that he was unsure if there is a deadline but noted that an applicant might file amendments to their Application for License but it rarely happens, particularly in an ALP. Eric expressed concern that there is no real opportunity to negotiate after October 2004, assuming DWR's January 2005 application was final. Rick Ramirez expressed hope for the settlement of most issues by October 2004 but added that negotiations could continue after that date. Jim Fargo commented that FERC does not wait for settlement negotiations to conclude and, depending on the timing, their NEPA document could evaluate alternatives that may not directly coincide

with a negotiated settlement agreement. The Plenary Group discussed the additional public review process associated with the preparation of the NEPA and CEQA documents.

Cathy Hodges, an equestrian trail rider, said she was not clear on the cumulative effects process. Russ Stein responded that DWR will determine direct and indirect effects and those will be analyzed for potential cumulative effects. Rick Ramirez reminded participants that Russ provided a presentation describing the cumulative effects analysis approach at the December 2003 Plenary Group meeting.

Eric Theiss asked DWR to refine the Process Update presentation into something that provided more specific information. He requested a flow diagram describing how all the information will be used in making a final decision. Rick Ramirez asked if Eric wanted to see the license application steps or the PDEA process. Eric replied that he wants to see the entire process. He described a 1998 graph depicting the licensing/exemption process of an ALP. Jim Fargo noted that he had spent time talking with Eric earlier on this subject and had indicated then that the graph was never finalized and is irrelevant to this process. Jim said it was not DWR's responsibility to describe the post-January 2005 filing process and that he would be glad to spend additional time with Eric to go through the process. Eric replied that it was important for the entire collaborative to understand the exact process and he would rather see a schedule with exact dates for commenting on paper. Rick offered to meet with Eric to provide more details on what happens during the next eight months and Ward Tabor added that DWR cannot give Eric exact dates because it is in the hands of FERC and dependent on information requests from FERC. Eric replied that he understands that but would like dates, if possible. The Facilitator reiterated an earlier suggestion for Eric to meet with Rick Ramirez, Ward Tabor and Mark Andersen to discuss his needs.

Rick Ramirez provided the Plenary Group with an update on the Settlement Process. His presentation is included in Attachment 4. Rick reported that the Settlement Negotiation Group has met several times, during which the communications agreement was discussed and settled. Upon signature of the communications agreement, negotiators were provided with a copy of the Interim Settlement Agreement (ISA). As of May 18, 40 participants have submitted signed communications agreements – 6 from federal agencies, 4 from local agencies, 18 from public agencies and 12 from non-governmental agencies. At the May 25 meeting, DWR will provide its rationale for the contents of the ISA, and seek clarifying questions. On May 26, there will be more questions and information exchanged specific to environmental and recreation interests. Rick acknowledged that the ISA is a living document and that there will be discussions held throughout the course of the summer. He added that DWR is seeking an agreement to accompany the License Application in January 2005.

The Facilitator asked Rick to address Roger Masuda's early question by describing how work group activities will interface with settlement negotiations. Rick stated that at the last meeting, a schedule was laid out on specific technical work group meetings that are related to settlement negotiations. For example, results for Study Plan R-17 are due to

be discussed in the Recreation and Socioeconomics Work Group in July and substantive discussions by the negotiation group are timed around the distribution of that data. The Facilitator asked how for example, the narrative report currently being prepared by the EOWG related to EO1 as described earlier by Curtis Creel would get submitted to the Settlement Negotiations Group. Rick replied that a flow chart was shared at a prior Plenary Group meeting showing how deliverable work products flow to the PDEA team so they can use the information in their analysis, and to the Plenary Group for its perspective. Roger would like DWR to better define the process with details relating to specific information. During the May 25 settlement negotiations meeting, he would like DWR to take a recreation issue and show how it would go through the process. Roger commented on the need for a practical look at the process. He added that he thought the flow charts looked good, but feels there is a need to take a realistic look at the time sequence. Roger thinks most of the complex issues would not get submitted to the settlement negotiations group until 2005. Rick agreed to provide a better look at how the process will work at the May meetings. Rick also agreed to describe the programmatic approach used to keep on track.

Meeting Summary and Action Items – March 23, 2004

Work Group Meeting Abstracts

The Facilitator informed the Plenary Group that abstracts covering work group meetings held since the last Plenary Group meeting are included with the meeting agenda. Meeting abstracts are included as Attachment 7. More detailed work group meeting summaries are posted on DWR's Oroville Facilities Relicensing web site.

Action Item – March 23, 2004

The Facilitator review the status of the action item from the March 23, 2004 Plenary Group meeting as follows:

Action Item #P149:	Consider including both sides of the Diversion Pool during the field trip associated with the March Settlement Negotiation Group meeting.
Responsible:	DWR
Status:	Only one side of the Diversion Pool was visited during the field trip; however, proposals for activities on both sides of the Diversion Pool were discussed.

Work Group Resource Action Presentation – Part II

Environmental Work Group

The Facilitator reminded participants that at the last Plenary Group meeting, Terry Mills, DWR's Resource Area Manager for the EWG agreed to provide an update on the status of EWG's RA process to date. Ted Alvarez explained the EWG process in Terry's absence, including updates to the material that was originally distributed at the March Plenary Group meeting. He highlighted the changes to the EWG resource action statistics (Attachment 8). Changes included the addition of three new RAs: two generated through the Hatchery Task Force and one resulting from the split of EWG48 into an A and a B to capture comments received from the Black Bass Action Committee.

Three RAs were moved from Category 2 to Category 1; one measure was moved from Category 2 to Category 5; and one measure from Category 3 was moved to Category 5. Ted also indicated that he modified the Resource Action Statistics Table to show that the Category 1s and 2s are the RAs that have been referred to the PDEA team for further analysis. A copy of the updated RA matrix is appended to this summary (Attachment 9). Ted also provided updates of the RA Flow Chart Diagrams for the: (1) Fishery Improvement Program, (2) Vegetation and Wildlife Program, and (3) Water Quality Program. These flow chart diagrams have been included with this summary as Attachments 10 through 12, respectively.

Eric Theiss questioned several delivery dates for environmental study reports and added that he feels the ISA contains statements that mischaracterize the position of the Fish Passage Task Force regarding the sustainability of a fish passage program indicated by the F-15 model. He suggested that the data was flawed and that after corrected, he believed it would indicate that fish passage looked more viable. He was surprised that the schedule indicates the report would be complete by June 2004. Eric also questioned why F-16 was not included on the pending completion schedule. Mark Andersen responded that his records show F-16 has been delivered to the collaborative. Ted Alvarez clarified that DWR and consultant staff had received comments from NOAA Fisheries regarding graphs for F-16 that were not included in the draft report. The omitted graphs are being re-examined and if a decision is made to include them, a revised report may need to be distributed.

With regard to Study Plan F-15, Ted indicated that DWR expects to complete all the tasks for F-15 by June 2004, as shown on the handout. Eric questioned whether Task 4 (model development) would be considered completed without considering steelhead since the current model was developed for Spring-run Chinook salmon only. Ted agreed that the model was developed for Spring-run Chinook and informed the Plenary Group that the approach discussed and taken by the task force was to develop a model for Spring-run first because it should be the easier of the two species to describe. If the model could not be shown to work for Spring-run Chinook salmon, it most likely would not work for steelhead. However, if we were successful with Spring-run Chinook, we would be able to modify the model for other species at a later time. Eric reiterated his concerns about the model for Spring-run Chinook salmon and steelhead and asked DWR to document their position regarding fish passage.

The Facilitator suggested that today's Plenary Group meeting agenda did not allow for adequate time to discuss this issue in detail and several key participants are not in attendance. She suggested that Eric's questions related to the ISA should be raised at the May 25 Settlement Negotiations meeting. She also suggested they continue the discussion of F-15 at the EWG Task Force meeting schedule for June 8. Eric would like to see more time built into the Plenary Group meetings to allow for potential in-depth discussions. Sharon Stohrer feels this topic would better fit as an agenda item for the environmental technical work group to consider if there is additional work needed or whether we agree to disagree.

Sharon Stohrer asked DWR if they would consider posting all PM&E narrative reports as a single document. Mark Andersen agreed to create a link to the narrative reports on DWR's Oroville Facilities Relicensing web site.

Update on Draft Application for License Package

Howard Lee, MWH consultant to DWR informed Plenary Group members that the draft Application for License (AFL) was completed and distributed to the collaborative on April 30, 2004. He noted the large service list to which approximately 190 copies of the AFL were distributed, with the remainder receiving notification of the availability of the AFL on the relicensing web site as well as at the Public Reference File locations. Howard provided a brief overview of the content of the draft AFL. Volume I contains the application and technical exhibits (Exhibits A, B, C and D). Volume II contains the PDEA Progress Summary. Volume III contains technical exhibits (Exhibits F and G) which are CEII protected.

He reminded participants that the purpose of the draft AFL was to give stakeholders current information on the progress of all engineering and environmental studies. Howard added that although this package is not mandatory under the ALP, DWR felt it was important to provide as much information as possible before settlement discussions begin. Although not requested by FERC, stakeholders are welcome to provide comments to DWR on the draft AFL. A 60-day comment period has been established and comments should be sent to Rick Ramirez. Rick mentioned that DWR has already received very helpful comments from DFG. Comments received will be reviewed and forwarded to the appropriate individuals. Howard reiterated that comments pointing out that the PDEA Progress Summary Report is incomplete are not necessary.

Russ Stein provided participants with a brief overview of the PDEA Progress Summary Report. An outline of Russ' presentation is included as Attachment 13. The purpose of the draft document is to provide an overview of the Oroville Facilities to assist the Settlement Negotiations group as they discuss potential PM&Es.

Next Steps

The Facilitator noted that according to the Collaborative Process Schedule contained in the Process Update presentation, the next Plenary Group meeting would take place in September 2004. Rick Ramirez felt that September would be a good time to report on the progress of settlement negotiations. Eric Theiss expressed discomfort with waiting until September for the next Plenary Group meeting and suggested July or August would be the latest he would like to wait. He indicated that there were issues he would like to discuss within the Plenary Group setting. Bill Foster with USFWS commented that the settlement negotiations meeting schedule has absorbed the Plenary Group meeting dates for the months of June and July.

The Facilitator relayed a question posed by John Coburn with SWC at the last Land Use Work Group meeting: would the settlement negotiations meeting schedule be posted on the relicensing web site? Rick Ramirez agreed to post the settlement negotiations meeting schedule on the relicensing web site.

Rick stated that DWR is sensitive to the amount of meetings for this process and suggested that August may be appropriate for the next Plenary Group meeting. He added that DWR expects many technical issues to be resolved at the work group level. Participants agreed that the Plenary Group would next meet on August 24, 2004 with the time and location to be determined. The Facilitator asked Eric Theiss to provide her with any topics he would like to include on the agenda for the August meeting.

Action Items

The following action items identified by the Plenary Group include a description of the action, the participant responsible for the action, and the due date.

Action Item #150: Provide an example to show how the process from PM&E development to settlement works and describe the programmatic approach used to keep on track.

Responsible: DWR

Due Date: May 25, 2004

Action Item #151: Create links from DWR relicensing web site to all narrative reports.

Responsible: DWR

Due Date: June 22, 2004

Action Item #152: Post Settlement Negotiations meeting schedule on DWR relicensing web site.

Responsible: DWR

Due Date: June 22, 2004